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exhibitions thus become a source of danger to the health and safety of the public. There is a provision for issuing a special notification under section 1 (3) of the Act for extending the provisions of the Act to non-municipal areas but this takes time. It was therefore thought best to make the provisions of this Act directly applicable to places within a distance of three miles from the municipal limits. The municipal councils and the District Magistrates who were consulted in this matter have expressed opinions in favour of this amendment. The Director of Public Health also has supported it. The object of the new clauses 13-A, 13-B and 13-C has been explained in the Statement of Objects and Reasons."

The motion was put and carried.

Clause 2 was put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

THE HON. SRI A. B. SHETTY :—" I now move, Sir—
' that the Bill be passed into law.' "

The motion was put and carried and the Bill was passed into law.

(3) THE MADRAS SHOPS AND ESTABLISHMENTS BILL, 1947—cont.

MR. PRESIDENT :—" Now the discussion for the consideration of the Madras Shops and Establishments Bill, 1947 (L.A. Bill No. 15 of 1947) will continue."

SRI P. VEERABHADRASWAMI :—" The Congress is pledged to improve the lot of the peasants and the workers. I am glad that legislation to improve the lot of these two classes is rapidly pushed through. The clerks and servants in shops and servers in catering houses are all overworked and it is but right that the present Bill is now before the legislature. The Bill is framed on the lines of the Factory Act containing the following provisions :—

- (1) Working hours—8 hours.
- (2) Provision for overwork—Double wages.
- (3) Holidays with pay and weekly holidays.

" The hours of work specially in restaurants and cinemas will have to be fixed in such a way that the health of not only the people who work in them is safeguarded but also of the people who frequent them. At present, some restaurants work till midnight. I am aware of one tea-stall at Vizianagram which is kept open all day and night. Second shows in the cinemas run into the midnight. No eating house or cinema should work after 10 p.m. People should have sleep for a good number of hours.

" To make the people follow the rules, the Government should appoint honorary Inspectors from the localitiy. These Inspectors will duly advise the people and they need not be invested with powers to prosecute."

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SRI B. NARAYANASWAMI NAYUDU :—" May I know what are the reasons that made the Government to bring in this Bill? How many persons are affected by this Bill, what kind of labour and what is the capital involved in these businesses? "

THE HON. SRI H. SITARAMA REDDI :—" We do not have figures of the employees who are going to be affected nor the number of establishments and catering houses. There has been no census taken in this respect. I would, however, inform the hon. Member that there are certain difficulties experienced by these employees and it is with a view to redress them that this Bill has been brought forward. There is no need for the collection of statistics and so none have been collected."

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SRI B. NARAYANASWAMI NAYUDU :—" Mr. President, this is a very exhaustive Bill providing for the regulation of conditions of work in shops and commercial establishments. I am a legal practitioner and on a reading of the definition of ' shop ', which says ' any place where any trade or business is carried on or where services are rendered to customers '—this latter portion makes me feel that a doctor carrying on his profession or a vakil practising before a court, might easily be brought in. None of the learned professions can escape this. I wish to know definitely from the Hon. Minister whether it is sought to be confined to only those concerns making profits and are deriving taxable income or who have capital resources or to apply it to all."

THE HON. DR. P. SUBBARAYAN :—" My hon. Friend need not labour on this point; if he refers to the definition of ' commercial establishments,' he will find that the legal practitioner is not brought under the Bill and his clerk and whomsoever he might employ would not be considered a shop assistant."

SRI B. NARAYANASWAMI NAYUDU :—" But what I am concerned is that portion of the definition which deals with rendering of services, viz., ' where services are rendered to customers '—these are the words; nothing that Dr. Subbarayan says now on the floor of the House can avail if it is a matter which is to be taken to court and things have to be definitely put down."

THE HON. DR. P. SUBBARAYAN :—" I do not know if my hon. Friend will call his profession a business."

SRI B. NARAYANASWAMI NAYUDU :—" ' Shop ' has been defined as a place where trade is carried on or where services are rendered and I have been saying from the very beginning that these latter words are the ones by means of which the practice of any learned profession might be brought within the purview of the law."

THE HON. DR. P. SUBBARAYAN :—" There the services are not rendered to ' customers ' but to clients and that is why they very carefully used that word."

SRI B. NARAYANASWAMI NAYUDU :—" I also want to know whether services rendered for money alone is the consideration."

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MR. PRESIDENT :—" There are some lawyers' houses which can be likened to eating houses." (Laughter.)

SRI B. NARAYANASWAMI NAYUDU :—" I want to be perfectly clear about it and I have some amendments upon that point. It is not as if, when the Inspector comes round and chastises me regarding the grant of leave for my clerks, I could tell him that Dr. Subbarayan has told in the Council that it is not so. When it is a question of going before the Court, what happened in the Council during the proceedings relating to that measure will not be allowed and they will be guided merely by the language of the law. For instance, there is the barbers' shop where they shave all the twelve hours and there is the money-lender who serves his customers. I believe they will come under the provisions of the Act."

THE HON. DR. P. SUBBARAYAN :—" May I refer my hon. Friend to clause 5 of the Bill :—

'Notwithstanding anything contained in section 4, the Provincial Government may, by notification, apply all or any of the provisions of this Act to any class of persons or establishments mentioned in that section, other than those mentioned in clauses (c) and (f) of sub-section (1) and modify or cancel any such notification.'

Therefore, the power is given to Government and I do not think they will easily get under this Act unless they know that the interests of the employees have got to be safeguarded."

SRI B. NARAYANASWAMI NAYUDU :—" Whether Government have got power to stop or do a certain thing is not the point in question. But the question is the wide sweep of the Act. The net is wide enough and can be cast any way; it will do no good to be told that it would not be cast in such a way, which I say, is possible. I am afraid this is not the kind of legislation that ought to have been brought before us."

MR. PRESIDENT :—" The hon. Member may be right if he says that this will apply to firms of advocates."

SRI B. NARAYANASWAMI NAYUDU :—" Dr. John has a big staff of clerks, reporters and a number of juniors. I wish to know whether you want to get at him. Definitely money-lending comes under this Bill. I can understand the herd instinct of hon. Members opposite but I believe they do not intend, when their own hearts are paralysed, that by their actions, the hands of others should also be paralysed. I can understand this piece of legislation is made applicable in cases where much money is made but the employees do not receive anything in return. That is where it must be applied. Supposing such a measure as this had been brought in England at the time of the industrial revolution when they were industrializing themselves. I am sure they could not have reached the peak of efficient industry as they have done. Our country is just now starting on the road to industrialization and before that all these are brought up. I was just thinking over

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this last night; I did not know whether we should weep or laugh over this. I thought it is better to weep. After all, even taking the question of the labourer, what is it that Government is going to do for them? Is it going to help the trade? No. A few will be given holidays and enabled to spend their time in enforced idleness. But side by side with that there will be the crusade against the employers. The Inspector or the constable will come round and ask me or somebody else: 'You have done a thing which is not contemplated under the Act? What do you say?' The person will have to satisfy him and get along as usual and thus it will not be the employee that will be benefited. Let us take the English law. It says that the shop is a place where business is carried on and includes retail trade and a retail trade is one which deals with customers and which includes both buying and selling. This Act first says something about shops and then tells something with regard to others and it is with regard to this I require a clarification from Government. Regarding the hours of work, it is not a thing which is going to be brought into operation immediately in so far as there is to be an enquiry and they have to come to a decision. Let us take section 9; 48-hour week is the rule; I do not know on what basis they have arrived at this 48 hours."

THE HON. DR. P. SUBBARAYAN:—"It is 48 hours in England and they are agitating for a 40-hour week."

SRI B. NARAYANASWAMI NAYUDU:—"There is one substantial thing given to the employees and that is they are given 36 days' leave in addition to the weekly holidays. Mr. Adityan, Mr. Sarma and Mr. Suryanarayana Rao supported their case; they have also got clerks and I do not know how they took the view they did. We can give them their holidays but there is one condition and that is that the trade must be a paying one. If there is less profit or less production, what is to happen? It does not provide for holidays when there are surpluses. When no surplus is available, is the Gandhian Government going to make a free gift of idleness to those persons? I wish to know what their programme is. 'From each according to his ability' is the socialist slogan and after that is the question of 'to each according to his worth.' In other words, only if you give, you get something according to and on the basis of what you gave. To the extent that you gave to that extent you make yourself deserving. Are you sure that labourers in this country have really put their shoulders to the wheel and done six days' work. Suppose they really work, will the employee deny them this holiday for a week? I do not know what is the guarantee of work that my hon. Friends, Mr. Sarma, Mr. Suryanarayana Rao and Mr. Adityan have given; if production on their part is guaranteed, we can understand this. If you do this, where is it to come from? Is it going to come from the Exchequer? If so, everybody will be glad. But the pity is it is not so. All told 36 plus 52, 88 days in the year, for 88 days the employees can enjoy holidays. Further there is provision for half-holidays. I do not know whether the Hon. Minister himself would like being bothered with half-holiday for these workers and that and fixing

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different half-holidays for the different classes of workers. Taking all this, my only question is, where is it to come from. So far as I could see, there is nothing in the Bill which says that if surplus is available, the holidays will be granted; I can understand if the whole surplus is taken by the employer and little or nothing is given to the employee. Supposing there is a loss, what is to happen? Supposing a shop-keeper employs two clerks and his business does not pay and he sustains a loss; is he to keep on his clerks? What about his family? Am I to take it then that it is in respect of his family also? What is it that you are legislating here? Is there any surplus fund available first of all before you distribute. Clause 41 says—

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p.m.

'No employer shall dispense with the services of a person employed continuously for a period of not less than six months, except for a reasonable cause and without giving such person at least one month's notice or wages in lieu of such notice, provided, however, that such notice shall not be necessary where the services of such person are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an enquiry held for the purpose.'

I was wondering whether it would not be possible to sit over the Inspector some way or other to say that there is misconduct. I have got to prove misconduct. But where is the other reasonable cause I must prove? What is a sufficient reason? Suppose I say 'he is an ass; he is inefficient.' He may know things, no doubt. But he cannot work at all. Is that inefficient man to be kept on by me for all time? Is he not to be dispensed with? Are you to go to the Inspector and prove his misconduct? Is he a servant or a master of me? Is he a tail or a head? I think in the Shops Act of England there is no such right. I speak subject to correction. The only thing you find is closure. But this thing, namely, that after twelve months continuous service your servant cannot be discharged, you cannot discharge a clerk, the shop assistant must sit upon your head, the Inspector must debate upon the misconduct and inefficiency of the clerk, is not provided there. It does not appeal to me nor is it at all justified. It only shows a weak attitude on the part of the Government to have brought forward this legislation without undertaking any enquiry. I would submit that we have got other Acts that will affect the worker. With workers on one side and the clerks on the other, and the Inspector sitting over them, who is the man that would like to do business in the world, I do not know. If you really cannot dismiss a man after 12 months service, where will this lead to? I do firmly say that we are not going to grant the principle. It is not going to help the revival of trade. You have got to increase your establishment. It will raise the price of articles. Mr. Muthuranga Mudaliyar said that even in the foodgrains shops people would have eight hours work and holidays. The foodgrains shops may say that they must employ two more clerks to work on account of these holidays and the restriction of hours. They may probably not employ the clerks, but they will take the money and eat it. The Inspector will come and enquire, and all these things will go on. Is trade so prosperous

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in this country? Has the Congress Party multiplied the resources of this country so much that we can spare a lot of money? Is it merely because of sentiment? Is this to be an empirical legislation? Is there no reason for all this? These are all questions waiting to be answered. Even in this country the Shops Act does not provide such things."

THE HON. SRI H. SITARAMA REDDI :—" The Bombay Act, 1939, has all these things."

SRI B. NARAYANASWAMI NAYUDU :—" England does not have it. Of course I am speaking subject to correction. It goes to the root of the matter. It is not a question of industry or trade. What has been done with regard to the Coimbatore mills I ask? The mills cannot act upon the adjudicator's award. 'We would close the mills,' they say. If the industry is not able to pay, and the mills are not able to discharge their workmen, what can they do but close their shop. This Bill will lead to all subterfuges, and demoralize the trade and commerce of the country and not at all help labour. It will accentuate the trouble between capital and labour. From textile mills, it will go to grocery shops. There also trouble will come. The trouble will go into the villages also. The agricultural labourers will say 'we want holidays,' when the crops are withering. When the fields are in an eroded condition, the labourers will ask for holidays. Therefore, I say it is really not helping labour. Would I, a lawyer, having seen this Act, employ a clerk for 11 months, put him off then, and again take him in. On the other hand, my clerk would not leave me whatever may be said. He is making money and I am also making money. But there are other cases where both the persons do not make money. What about them? It is very easy to pass measures like this. The consequences of the Bill must be seriously thought of. It is not very easy to understand the principles and table amendments. It is no Secretariat work. Therefore, I submit even on first reading that it is not at all to our material advantage. If you want to pay labour as in Europe, we cannot compete in international trade and international markets. If you want to pay labour here as in Europe, Simpson & Co. will have all the business, and our China Bazaar shops will have to disappear. This is strangling labour and industry and not at all helping labour. What is being done by the mills at Coimbatore? Sir, this Bill will only be creating a crisis for which there is no necessity."

* SRI M. NARAYANA RAO :—" Mr. President, Sir, I never had any intention of taking part in this debate, but as there is plenty of time (laughter), and after hearing the arguments of Mr. Narayanaswami Nayudu, I think I should put in a word on behalf of the suffering section of humanity—the shop assistants and other employees. I do not know why there should be so much opposition against this measure which is intended to give some relief to the shop assistants and employees. This is a thing that has been long overdue, and the shop-keepers and their employees have been agitating and looking up to the Government for a legislation."

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of this kind. We know the capitalist can take care of himself, and the Government need not give any protection to him. Some hon. gentlemen have pleaded from the point of view of the consumer, and some other gentlemen have pleaded from the point of view of the employer. The employer and the consumer have to be satisfied. But what is to become of the employee? He has been tyrannized more or less by the so-called higher classes who make tons of money. We know there are shops, hotels and other places where tons of money are made every day, but the employee does not get any relief. Therefore it is they look to Government to give them some relief. Because they are poor, they are not able to assert their own rights, and they cannot depend upon themselves. Hence they look to Government for a legislation like this. If an employer is good, if he is charitable to his employee and if he gives him all the comforts, I do not know why Mr. Narayanaswami Nayudu should be so anxious about the employer. (Interruption by Sri B. Narayanaswami Nayudu). There are people who make tons of money. It is the poor employee who earns the money for him. Are there not people who make tons of money and who are also cruel to their employees, I ask? There are hundreds and thousands of people who make lot of money. Every employer is selfish to the utmost, and he wants to extract as much work from his employees without giving them any amenities. There are of course a few generous exceptions. I do not deny that. But the majority of the employers are very selfish, and want to extract as much work as possible without paying ample remuneration and giving them all facilities that are necessary. This is a very simple measure. I congratulate the Hon. Minister for bringing forward this measure. I know that the employees will ask for greater relief. I do not think this Bill goes far enough to give them sufficient relief. They would like to have some gratuity in their old age. The employer takes work from his employees, makes them work from morning till evening, and sometimes till late in the night. When these employees get old, they are left helpless in the wilderness. So, there must be some security for the employee after the age of 60—insurance or gratuity. I am certain that the employees will not get satisfied with what is given under this Bill. I appeal to Government to give them more relief when the time comes. There are no associations of employees all over the country, and they have been clamouring for a legislation of this kind. In Bombay, the Shop Assistants Act is being worked very successfully. Mr. Narayanaswami Nayudu said that there was no legislation of this kind in foreign countries. I think in England there should be a legislation of this kind to protect the employees. Otherwise the employers are perhaps very generous to their employees. It is the duty of the employer to show kindness to the employees, to treat them as part of his own family, to treat them as men, and to give them all help. I do not find these conditions are obtaining to-day in this country. If there are any they are only a few. So, I believe that a legislation of this kind is absolutely necessary. It is already long over due. I congratulate the Hon. Minister on having brought forward this Bill."

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* SRI B. BHIMA RAO :—“ For the same reason stated by Mr. Narayana Rao, I may also make a speech for about five minutes.”

MR. PRESIDENT :—“ I do not want to curtail you ; you may go on.” (Laughter.)

* SRI B. BHIMA RAO :—“ I am in agreement with the principles of the Bill. I have got the same apprehensions as Mr. Narayanaswami Nayudu has. The definition of ‘ shop ’ is so comprehensive as to include a lawyer’s office also, because we render service there to our customers or clients. So, when this matter goes before a Court of Law, it may be that they give a very liberal interpretation. My Hon. Friend, Dr. Subbarayan, said that he could exempt it from the notification. But, I think, Sir, the notification is restricted in its scope. In sub-clause (1) (c) of clause 4, only certain establishments under the Central and Provincial Governments, local authorities, the Reserve Bank of India, the Federal Railway authority, etc., are exempted. As you know, Sir, we have got two months’ holidays, and our clerks take holidays even in advance of us. They do not serve us in these two months. They take our permission for leave, and some times they take three or four more days as French leave! For the rest, I am in agreement with the principle of the Bill in giving holidays to the shop assistants.”

* SRI N. VENKATACHALAMAJI :—“ అధ్యక్ష, పరిశ్రమ శాఖ మంత్రి గారు ప్రవేశపెట్టిన ఈ బిల్లుపై రెండు చూపు సంగతులు మనవి చేస్తాను.

“ Chapter II, Section 7 లో కొట్టులను ప్రభుత్వమువారు నిర్వచించిన వేళకు ముందు తెరవకూడదని, అదేవిధంగా నియమితమైనటువంటి వేళకు మించకుండా మూయవలసినదని వున్నది. Income tax పనిచేశాగాని Sales tax పనిచేశాగాని కొట్టు తెరవవలసి ఉండవచ్చును. వారు 12 గంటలకు వోటీను యిచ్చి 3 గంటలకు పుస్తకములు తనిఖీ నిమిత్తం తీసుకరమ్మనమని కోరినపుడు 4 గంటలకు కొట్టు తెరవవలసిన వేళ అయినపుడు 3 గంటలకు తెరచినవారిని ప్రాసిక్యూట్ చేయటకు ఆవకాశముంటుంది.”

MR. PRESIDENT :—“ ఈ చట్టం అమలుచేసేటప్పుడు వోటీను ఇవ్వడం విషయం ఆలోచిస్తారు.”

SRI N. VENKATACHALAMAJI :—“ ఈ బిల్లులోనే ఆ విషయం చేర్చిన వాగుంటుందని నేను ఆశకొంటున్నాను.

“ ఒక్కొక్కపుడు కొట్టు ఏ 4, 5 నిమిషములకో మూసివేస్తారనే సమయంలో ఉద్యోగస్తులు సామానులు కొనటానికి వస్తారనుకొండి. సాధారణంగా సామానులు కట్టి ఇవ్వటానికి సుమారు 20 నిమిషాలు కావలసి వస్తుంది. కాని గుమ్మాలు, నాకర్లు 4, 5 నిమిషాలలో కొట్టు మూసివేసి వెళ్లిపోతామని ఆనవచ్చు. ఇంకా 4, 5 నిమిషాల time ఉన్నదికదా సామానులు ఇవ్వమని కొనుక్కోనేవారు ఆనవచ్చు. ఇలాంటప్పుడు వర్తకుడు చిక్కులు పడవలసి వస్తుంది.

“ కొన్నిచోట్ల వర్తకుల యిల్లు, కొట్టు విడివిడిగా దూరంగా ఉంటాయి. కాని కొండరి యిల్లు, కొట్టు కలసి ఒకేఇంట్లో ఉండవచ్చు. అలాంటప్పుడు వర్తకుడు ముందుగా కొట్టు తెరచి సామానులు తానే అమ్మకొనుటకు కూడా ఈ బిల్లులో అవ

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కాశములేదు. దీనివల్ల గుమస్తాలకు, వాక్లకు కష్టములేకపోయినా వర్తకుడు సరుకు అమ్ముకొనకూడదు. అలా అప్పుకుంటే ఆతనిని prosecute చేయడానికి కూడా అవకాశముంది. సరకు అమ్ముకపోయినా కొట్టు యిల్లు ఒకటే అయి భుంజడంవల్ల వర్తకుని prosecute చేయవచ్చును.

“ 8 వ Chapter లో Inspector లను వేయవలసినదిగా ఉన్నది. Inspector లను ఈ పనికై ప్రత్యేకముగా వేసేవానికన్న ఈ పనిని ఇప్పుడు మునిసిపాలిటీలలో ఉంటున్న (కాఫీ టెలాట్రజ్ లైసెన్సులు, వగైరా విషయములు చూస్తున్న) Inspector లకు అప్పగించిన గవర్నమెంటువారికి ఖర్చు తక్కువ ఉభయంవలన మంచి చేస్తున్నాను.

“ ఈ బిల్లువల్ల లాభము జూసిగా ఉండదు గాని లంచ గొండితనము ఎక్కువ అవటానికి అవకాశమున్నదని నాకు ఆనుమానముగా ఉన్నది. ఈ సలహాలను చేస్తూ ప్రభుత్వమువారు ప్రతి పాధించిన ఈ బిల్లును విశదీకరించుచున్నాను.”

MR. PRESIDENT:—“ Dr. John may speak now. The discussion has been purposely kept going on for his sake! ” 12.30 p.m.

* DR. V. K. JOHN:—“ Mr. President, Sir, the one object of the Members of the Opposition and the members of the Public is to give every support to the Government of this Province and of this country if possible. Because, Sir, we are in difficult times and we want to keep up the prestige of this Government in every way as we lawyers know that it is necessary to keep up the prestige of the Judges in the court. Once it is destroyed the administration of law will disappear and the lawyer's job will go. Now, Sir, we want to keep up the prestige of this Government wherever possible and wherever feasible. But it becomes necessary at times that we should offer constructive criticism and point out to the Government that the course they adopt—and they have been recently adopting such a course—will prejudice this Province in every way. Sir, I take full responsibility in saying that the procedure adopted by the Government in many measures and the many pieces of legislation they have introduced is calculated to drive this Government to bankruptcy and not only this Government, but also individuals to bankruptcy. The statement will not surprise any one, Sir, if we have an overall view of what this Government have been recently doing. They have been destroying sources of income; instead of augmenting it. The Sales Tax Bill will soon be here. I am referring to it only for the purpose of pointing out how this Government is trying to kill the goose which lays the golden egg. Sales tax can be introduced in a Province only if there is a corresponding imposition in the neighbouring Indian States and Provinces. Otherwise capital will fly from this Province and you will have nobody to tax. The Government think that revenue can be obtained that way and they will be bringing not only themselves into bankruptcy but by the policy which they are adopting they will bring the individuals also into bankruptcy.

“ I may refer to another instance here, Sir. Fourteen crores of rupees have been spent in procurement and distribution of foodstuffs. But very little attention has been given to production and we bear

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nothing about it, except one Minister saying : ' We shall hereafter try to bring cultivable land into cultivation.' I am mentioning this because it is relevant to this legislation. What is this piece of legislation which the Government have brought forward?

" In these days, Sir, when we have a war the Government would have done better, if instead of their Ministers wasting their time like this, they spent their money in security measures and the Members of the Council and the Members of the Assembly were asked to co-operate with them in security measures and our time is not wasted. What is this measure? They want to regulate the contract between the employer and the employee, in shops, commercial establishments, restaurants, theatres and other establishments. It is a fundamental principle of law based on public policy and for the good of the individual and the community as a whole that you should not interfere with the contracts made by persons with each other. You must not try to regulate them unless one party is weak and the other party is too strong. Even in those cases the principle is that you should interfere with great caution because interference will not at all help either the individuals or the community as a whole.

" Now, Sir, in order to deal with the contracts or the conditions of service in all departments, trade unions have been brought into existence of late and we have the India Act of 1926 and in England also there are Trade Union Acts which regulate and legislate trade unions. Sir, it is the function of a trade union to regulate the dealings between the employer and the employee. There are a number of commercial establishments, restaurants, theatres and shops in this Province and one differs from the other. You cannot have one kind of service for every shop and theatre or other establishment. The employer and the employee know what should be the best conditions of service. The conditions of service must be left to them. They must make contracts. But if there be any oppression by the employer then the trade union formed for the protection of the employees will come in. The trade union in each case ought to investigate and come to conclusions as to what should be the relationship between the employer and the employed in any particular institution. Instead of regulating the pay, holidays and other relationships between the employer and the employee of any establishment, whether big or small and whatever be their nature, the Government should leave it to the trade unions and encouraged trade unions.

12.45 of Government not to intervene in any disputes between the
p.m. employees and the employers. Employees who number thousands might have disputes and differences with their employers. The trade unions and the employers attend to them. It is only when they cannot settle the disputes, the Government appoint courts of enquiry and boards of conciliation in order to assist them to come to a settlement. No trade union leader will go to extreme lengths, because once he does so he will himself be dismissed.

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" Sir, without the existence of these shops, the commercial establishments, restaurants, theatres, etc., with which this Bill is dealing, there will not be employment for many thousands of people. This Government—I must say it was Mr. Prakasam's Government—adopted a policy calculated to making this Province bankrupt. I do not say that was their object in view, but what they did was calculated to make this Government bankrupt. They wanted to stop the Mills which produced the cloth imagining that khaddar can be produced for everybody. If they had closed down the mills, the result would have been that many would have become bankrupt, there would have been a reduction in taxes paid to the Government and thousands would have become unemployed. Sir, you must step up production in everything. To assist production you must have distribution through a very large net-work of distributors. When we, lawyers and members of other learned professions and legislators, talk about legislation regarding trade, people who know something about trade say that we are destroying the usual trade channels. When we want to get rid of middlemen, they say that the usual trade channels would be gone and that would bring ruin.

" Now, Sir, let us take cloth. We want to produce as much cloth as we can, not only to supply our own needs but also for export. How can that cloth be distributed? And without proper distribution, production will be no good at all as the cloth will be in the godowns. You want a net-work of thousands and thousands of cloth shops. If you do not have a number of wholesalers and retail dealers to distribute the cloth produced, production itself would be impossible. Sir, all the shops that we are dealing with in this Bill distribute some kind of things which are essential for the life of the community. We want thousands and thousands of them so that production may be improved, distribution may be perfect and the community may be benefited. You propose to introduce legislation controlling the contract between the employer and the employee. You also tell the employer that he must pay the employees so much, that he must give them so many holidays in the year, that he must give them this and that, and that you will control them in every respect with your inspectors and so on. Besides, Sir, every small shop-keeper must study this piece of legislation which takes in 53 sections. To-day, the members of the legal profession are sought after by big establishments. After this Bill is passed, every small shop-keeper should have a legal adviser for him to explain this complicated piece of legislation."

MR. PRESIDENT :—" So, the hon. Member supports this legislation." (Laughter.)

* DR. V. K. JOHN :—" *Prima facie*, it would appear that lawyers stand to benefit. But when the shop-keepers close their shops, not only the lawyers will not benefit, but the Government also which depend on the prosperity of the people for their income will become bankrupt and the lawyers will not be benefited. In any recent legislation there is a tendency to reserve everything for

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the Government. For 'commercial establishment' the Government give a definition and in the end say that it includes such other establishments as the Provincial Government may, by notification, declare to be commercial establishments. Why can't they dispense with the definition altogether and say that a commercial establishment is an establishment declared in due course by the Government to be such and such?"

MR. PRESIDENT :—" I may just tell the hon. Member that some time back when he was not here, the opinion was expressed that even the legal profession also might we come under shops."

* DR. V. K. JOHN :—" I am not very much concerned with that now. Let us take section 13 which deals with opening and closing hours. It says that they would be fixed by the Provincial Government by general or special order in that behalf. Not even a lawyer can help these people, because in section after section the Government reserve powers to themselves. You will have to find out the notifications and copies of gazettes will have to be sold in thousands and if you want a copy of the gazette you will be told that for want of sufficient paper only a few copies were printed. Out of these 53 sections, I can read to you a very large number of sections where the Government have reserved to themselves the power. Not only that, the Government are also given the power to delegate their powers in any matter which is reserved to them. So all that is reserved to them is also reserved to their subordinates. Not only that, they get rid of the jurisdiction of the courts as they have always done in recent legislation. Then, Sir, the Provincial Government 'may, by notification, suspend for a specified period the operation of all or any of the provisions of this Act.' So, the Government are given power to suspend this piece of legislation which we have passed. The executive wants powers to add, subtract, suspend and delegate the provisions of this Act. Have you ever in any civilized country with a democratic form of Government seen a legislation like this?

" Sir, we have very often requested the Members on the other side to support us in our motions regarding Bills. This they will not do. They should at least fight in their Congress Party meetings against this kind of legislation. To pass this kind of legislation through this House reflects no credit to the Government, or to the Legislature or to themselves.

" Sir, the Government are trying to regulate the contracts between the employers and the employees. These employees are certainly not ordinary labourers. They know something and without leaving them to regulate their contracts the Government want to regulate their contracts. What is the basis? Have they made an estimate of the number of employees in all these shops? Have they received complaints from them? Have they encouraged trade unions among them, so that for instance, if a restaurant is not dealing with its employees in a fair manner, a meeting of the trade union of restaurant workers may be called and they may put pressure on the restaurant proprietor or ask the Government to

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assist them and give their good offices? They have done nothing of the sort. Because somebody in charge of legislation takes it into his head that something must be done, they produce a legislation like this.

" I was saying, Sir, that the policy adopted by civilized Governments is to assist the parties to a trade dispute to settle their own disputes by appointing boards of conciliation or courts of enquiry. The Trade Disputes Act, 1929, contains provisions for the appointment of tribunals and for adjudication only in the case of essential services. The others were left alone. Why? Because it is impossible in the very nature of things that a third party could come in between the employer and the employees and regulate their relationship. If the employer does not do business, there is nothing to regulate. Everything is finished. Trade unions are always conservative institutions and they do not go too far. The other day in the case of a small mill in Andhra Desa the adjudicator gave an award for the payment of so much to the employees. The mill was bankrupt, it closed down immediately and thousands of employees were thrown out of employment. To pass an award that an employer should pay so much without knowing whether he can afford to pay it, is doing an injustice not only to the employer, but to the employees and also to the community. I would have appreciated if the Government had brought forward an Unemployment Insurance Bill on the lines of the Unemployment Insurance Act of 1935 in England. It would have been of some assistance. Have this Government at any time made an estimate of the number of unemployed in this Province? Have they helped the unemployed to find work by stepping up production of cloth, by bringing more lands under cultivation and by cultivating the existing land more intensively? That would have done good to the public at large. The Government should have first found out how many able-bodied men are unemployed and should have introduced legislation on the lines of the Unemployment Insurance Act in England. But they have done nothing of the sort. Somebody in the Secretariat, someone assisting the Minister says that it is a very good thing to regulate contracts between shop assistants and their employers. That goes into the head of a very enthusiastic Minister and he says that it is right. No investigation is made and nobody knows whether there is any general complaint from employees against employers and if so, what is the nature of the complaint. Nobody has investigated whether such complaints could not be first dealt with by trade unions. Nobody has promoted trade unions and nobody has employed courts of enquiry and boards of conciliation. But they come forward in the Legislature with an Act containing 53 sections which is to be studied by the employers in shops. The Act is not translated in the regional languages.

" Sir, the fundamental principle of law is this. I think the Hon. Dr. Subbarayan has not forgotten his law. The fundamental principle is this. Ignorance of law is no excuse. The employers and employees have to mug up 53 sections. A contract between

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the employer and the employee, which they have been carrying out very well, is regulated, controlled and cancelled by this Act. It is atrocious that you pass a legislation like this with 53 sections which should be studied by all the shop assistants. They must spend a lot of time to study it and they must attend classes to learn the Acts. As I said the other day, the Public Service Commission is supposed to be on a holiday. Some days back, the amount of travelling allowance drawn by Ministers for tour in their districts was published. It created such a commotion that it was talked about at the Bar Association, at the beach and at the clubs. Some Ministers have spent about one hundred rupees a day on travelling. Such things bring discredit to the Government. We are anxious that the Government which are functioning in this Province should not be discredited at all. Because we are in difficult days and we may be in war, if we are not already in, the prestige of the Government must be kept up. Even after the whole thing is published in the papers—of course, some papers did not publish it—and the attention of the public has been drawn to it, no Minister who has spent one hundred rupees a day in touring his district has come out with an explanation."

(After lunch—3 p.m.)

DR. V. K. JOHN :—" Sir, before lunch, I was on the question of the prestige of the popular Ministers. I said that in these difficult days, popular Ministers should keep up their prestige, because if we want people to come in line with the Government, or at any rate if we want to maintain the security of this Province, we must depend upon the popularity and the prestige of the popular Government. That is why, Sir, we are always reluctant on this side to discredit them or criticize them harshly and we are always anxious to support them in all measures which they bring forward, if we can possibly do so.

" Sir, I was referring this morning to the Ministers' tours and how they discredit themselves in the eyes of the public and how it was difficult for us to explain them to the public. It is only with that object that I referred to it.

" Now, Sir, I want to emphasise this fact that any legislation which the Government bring forward must aim at stepping up production. Distribution is absolutely necessary for production, because production cannot be of any use to the public unless there is distribution. Now distribution depends very much on the small trader. We want thousands and perhaps millions of small traders both for buying and selling. Otherwise goods cannot move. These traders should have employees in their shops, and therefore they enter into some contract with the employees and take them to their service. Now the question is whether we should interfere with such contracts made between the employer and the employee.

" Sir, one of the fundamental principles which any Government should always bear in mind is that they should not lightly interfere with the sanctity of contracts. The employer and the employee

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know very well, what suits them best. But, Sir, there may be some cases where the weaker employee may be oppressed and there may be some widespread evils in the system and discontent among the employees on account of service conditions. But there are trade unions to look into these matters and the Government can help them only in labour disputes, not by awards and adjudication but by conciliation and by enquiry, conciliation by the officers of a popular Government whose advice will be respected and enquiry into the facts which the employer and the employee may not know and cannot get at. That is why Sir, you find in all labour legislations, provision is made for a court of enquiry and a board of conciliation. It is only in very rare cases that compulsion is used between the employer and the employee by the Government.

“ Sir, in very essential services, essential for the life of the community, provisions are made for compulsion. But that is resorted to only in a very limited sphere. For instance, when the war was on, under the Defence of India Rules compulsion was resorted to, to keep the employer and the employee at work. But after the war was over, our popular Governments came into power, and they thought that they would earn popularity if they made some provision for compulsion for the benefit of the employee, not knowing that the demand for employment again depended upon supply and demand. Now, Sir, look at the provision in this Act. Section 41 says: ‘No employer shall dispense with the services of a person employed continuously for a period of not less than six months, except for a reasonable cause and without giving such person at least one month’s notice or wages in lieu of such notice, provided, however, that such notice shall not be necessary where the services of such person are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an inquiry held for the purpose’.

“ Now, Sir, it did not strike the draftsman of this Act that this is a fundamental provision in the Act and that he should define what is meant by a ‘reasonable cause’ and what is meant by ‘misconduct’. These things are left in the air. What will be the result of this legislation? If an employee is dismissed, he will say that there was no reasonable cause, and the employer will say that there was a reasonable cause. We do not know what is a reasonable cause, and there will be no end to the dispute, so long as the term ‘reasonable cause’ is not properly defined. So also is the case with the term ‘misconduct’. The employer will say that it is a case of misconduct and the employee will deny it. Thus there will be endless litigation. But the point is, why should I be a party to this legislation? I raise my voice of protest against this provision in this Bill, in which the terms are left vague and they open a fruitful field for litigation.

“ Now, Sir, I am worried about the vagueness of the language used. In almost every piece of legislation introduced by our popular Government, the English language has been murdered, and it seems that because we have got rid of the British rule, we can murder the King’s English as we like. But, Sir, we are

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necessarily interested in the clarity of the language used in Bills and Acts. What will be the result of this Act, Sir, when it is passed? Every employer will make use of section 41 of the Act and see that he does not employ his servants for six months in his office. He will dismiss his servant on some pretext or other before the sixth month and he will avoid all the troubles presented by clause 41 of this Bill. The result will be that nobody will get any permanent service, because if the employer keeps his servant for more than six months, he cannot easily dispense with his services. Suppose I want to dispense with the services of a person employed by me, who has put in a service of more than six months, I cannot do so by giving him a month's pay, as has been the practice hitherto. In addition to that, I must show a reasonable cause, because the word used in the clause is 'and' and not 'or'. I do not know what the Government mean by 'and'. Perhaps they think that 'and' means 'or'. But the word 'and' and not the word 'or' which is used. Therefore, as I said just now, if an intelligent employer wants to get away from this section, he can see that no man is employed in his office for more than 5 months and 29 days. He can dispense with his service before the sixth month and then re-employ him afterwards. Sir, this Bill does not say that re-employment is prohibited. The draftsman of this Bill does not know whom this Bill protects. I think this is an atrocious piece of legislation, not protecting the people whom it is intended to protect. It tends to demoralise the employer, and makes him do something which in his conscience he does not want to do.

"Now look at another provision of this Bill, namely, clause 17. It says: 'No child shall be required or allowed to work in any establishment'. Sir, under this Bill, the child is defined as 'a person who has not completed 14 years'. If a boy has completed 13 years, he should not be employed in any establishment. Sir, there are a number of jobs which can be done by boys who are 12 and 13. How are you going to find employment for them? Is there any legislation which gives them compulsory education up to the 14th year, feeding and clothing them all the time. Now you say that this boy shall not be employed. If he is employed, an inspector will come and prosecute the employer. Is it in the interest of the boy or his parents who want him to be employed in any trade where he can learn something and at the same time earn something? If you pay him even a rupee, it becomes employment. This Act prevents employers from employing thousands of boys whom they are now having under their employ without any evil effect on them or the employer, but with good result for both. This Ministry wants to control individual life. Though this Ministry is stated to be a popular Ministry, it is really a control Ministry. It wants to regiment every man's life. It wants to interfere with the employment of people and now it has enacted a legislation by which it can even extern any person. It has excluded the jurisdiction of the civil court.

"Sir, I do not wish to go into the details of this Bill. If you go through this Bill, you will find that there are provisions in it which

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are against the interests of persons whom it is intended to protect. There are enough provisions which hurt the persons whom the Government want to protect. Why? Because there is no intelligent brain behind the drafting of this Bill."

SRI S. B. ADITYAN :—" May I know, Sir, whether there is any law which does not affect the individual of the State in any way? "

DR. V. K. JOHN :—" I am glad, Sir, that the hon. Member has put that question. It is the fundamental principle, Sir, that the freedom of the individual should not be interfered with, unless his freedom is inconsistent with the security of the State and against the good of the people and of his own good. If you prevent a boy from getting employment, is it for the good of the community or the security of the State? I say it is not. In some cases there may be bad employment, but such cases are few. What is the law after all? These popular ministers must learn at least one fundamental principle of legislation and that principle is this : Law is the idea of right or wrong in the community. Law is a living thing; it grows because the idea of the community grows. Has the community demanded that boys of 13 years 11 months should not be employed in an establishment? Let the community condemn it as an evil; then let some legislation be brought in. It is the community's idea of right and wrong that you have to see, even as the common law in England has grown up. That law has been administered by judges conversant with the ideas of the people; they find that a particular conduct or act of an individual is condemned by the people and they condemn it. They find that a particular act is approved by the people and they enforce it. Therefore, the first question is : was there any general demand, was there anywhere anything said by any responsible body of persons that a boy of 13 years 11 months cannot be employed in any capacity whatsoever in any establishment and cannot earn Re. 1 in these difficult days when the poor people want income earned not only by the father and mother but also by the boys in the house? Now, why should in this Legislature, pass a Bill like this? I say it is atrocious; there has been no demand for it; it is unjust to the employer and unjust to the employee and also unjust to the community as a whole; it prevents children from being employed. This ministry prevents it; it says you cannot learn and you cannot earn. There are many other provisions like this. This Bill, according to me, leads to many evils. Altogether it leads to at least five evils. First, it will lead to unemployment because employers will be chary to employ anybody on the conditions mentioned in this Bill; they will try not to employ them if they can. Then, Sir, employment itself will depend upon the income of the employer. Suppose I have to give 150 days as holidays to my clerks; then my fee will go up because I have to find the money to pay them. Otherwise, I will not practice. When the shop-keeper finds that his establishment costs him so much, he will put up the price of the goods which he buys and sells, and this will prejudice the community as a whole. The Government should not think that by

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legislating that the shop-keeper or the establishment should pay higher wages to the employee, the employee will not increase the price of the articles to consumers or purchasers of those goods. In that way this is against the interests of the community. Again, not only will it lead to unemployment and to a rise in prices, it will also ruin many employers because it will affect adversely, when this Act comes into operation, many of the employers, with the result that many of them will become insolvents; you will be creating bankruptcy of many individuals in the province; when I say 'many', it means not hundreds but thousands and tens of thousands. Your Bill will be conducive to the bankruptcy of the individual and it will also contribute to the bankruptcy of the State. Again, this Bill is oppressive. You delegate your authority to others; you cannot yourself administer this Bill without some Government officers, ill-paid officers; these 53 sections will never have been read or studied by the poor shop-keeper and you will, through your officers, find many loopholes in his conduct and you will sit tight on him. These officers will get their food and their clothes from the shop-keepers and plenty of money also. So, it will lead to corruption; it will corrupt both the giver and the taker. Has the Minister who is responsible for this Bill contemplated how many thousands he has to employ for the purpose of administering this Bill? You have to find out whether every employer is keeping to the terms of this Bill. We are now spending, I am told on authority, about Rs. 12 crores on Government establishments. It has not only doubled but trebled during the last few years. Our normal revenue which was Rs. 30 crores has been cut down by this Ministry's policy by about half. We are already paying Rs. 12 crores to the Government officers and they demand more payment, because the policy of this Government has been to inflate prices. Unless you step up production, nothing can be done to bring down prices. The other day I brought to the notice of the Hon. Premier and also the Minister for Industries and the Director of Industries that there is a great national asset in Coimbatore, a great genius, a man with the highest talent for invention; one like him may not be born in a thousand years; there is none like him, I can say, in the whole of India; if there was one like him in Russia or any other country the Government would have gone to him and made use of his talents—I am referring, Sir, to Mr. G. D. Nayudu who has made so many inventions in industry and in agriculture and I have myself seen some of them. Nobody seems to have taken notice of what he has done and what he is doing. The previous Government, not being interested in encouraging industries in this province, allowed him reluctantly to open a technological institute; he has invested money, he will invest more money and he will also stop production of goods which we import to-day but the Government will not look at him. I wrote to the Hon. Premier and I have told the Premier and the Minister to go and have a look at his factory."

MR. PRESIDENT :—"What has all this to do with the present subject?"

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DR. V. K. JOHN :—" I am saying all these to show that instead of stepping up production, the Ministers are spending their time in producing legislation like this which will ruin the distributing agencies, which will ruin the shop-keeper, which will create unemployment, which will demoralize the public service, which will increase the expenditure of the Government because you want thousands of people to enforce the provisions of this Bill if it is passed into law."

MR. PRESIDENT :—" The hon. Member has already taken nearly an hour."

DR. V. K. JOHN :—" I will take five more minutes to finish. Very few like criticism of the Government. If you will kindly allow five more minutes, I shall finish."

" I was saying it would demoralize the Government servants, it would demoralize the shop-keeper, it would demoralize the employee. He will say ' I shall serve you for six months ' to the employer, but the latter will say ' I cannot employ you for six months ' and the man will have to say ' yes, ' because somehow he wants a living."

" Sir, it is always said that control and blackmarketing go together. I say, control, blackmarketing and corruption, all go together. Therefore this Bill which would do incalculable harm and the purpose of which would have been served in the normal course by encouraging trade union, this Bill which would do great injustice to the trade and to the relationship between the employer and the employee in this country, this Bill I suggest to the Government, should be dropped. I know they will not take my advice; they won't drop this Bill; it would affect their prestige; they will go on with this Bill. But I say again, it is my duty to tell the Minister, ' drop this Bill '. On the other hand, encourage trade unions because the man in charge of the trade union will know how much an industry or trade can give to the employee, how much an employer can give; by all means assist them by courts of enquiry, assist them by boards of conciliation. That is the one way to regulate the relationship between the employer and the employee. I ask you to do that; I also ask you to introduce legislation on the lines of the Unemployed Insurance Acts of 1935 in England. Let the Government concentrate their attention on insurance for the unemployed, on old age pensions, etc. Those are the things which Government can at any time legislate upon, because without legislation such things cannot be carried out. I invite the Hon. Minister to spend some little time in studying the Unemployed Insurance Acts in England. If the Government won't accept my advice, I ask them to open up large numbers of schools, thousands of them all over the Province, so that the employees of the Government, the shop-keepers and their employees, all may be instructed in this Act containing fifty-three sections. Employ members of my profession and pay them decently and let them interpret, although

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they will find great difficulty in interpreting this Act so loosely worded. Anyway, ignorance of law is no excuse; they must have classes to teach these persons. I advise the Government also to have this Bill translated into all the languages of this Province and see that people are able to read them, to understand them and then act according to these provisions thereof. Sir, the Government have brought many Bills in this Council, but one piece of legislation in the provisions of which I can see the forerunners of communism or bolshevism is his piece of legislation. Because, they will create such a confusion between the employee and the employer that disputes will be raked up unnecessarily and the result will be, that not only will many leave this Presidency and invest their money outside but the disputes between the employer and the employee will grow to such an extent that you will find communism introduced into this Province much earlier than we all expect."

* DR. SIR A. LAKSHMANASWAMI MUDALIYAR :—" Mr. President, Sir, my object in speaking for a few minutes on this Bill is to invite the attention of Government to certain fundamentals which deserve consideration, in the passing of legislative enactments dealing with labour and capital. I do realize that in the past, labour has not had that appreciation of its difficulties and that appreciation of the need to improve its conditions that a Government alone could have given effect to; and it is largely because of this that there is at present a wave of feeling against capitalism in general and in favour of labour in all realms of activity.

" At the same time, Sir, it is necessary for us to realize that in the legislation that we enact, we put in such conditions as will enable the three essentials to be satisfied in regard to the interests of the country. I plead firstly for national efficiency; secondly, I plead for a certain amount of national prosperity; thirdly, there must be a certain amount of national self-sufficiency which will enable the nation to progress from stage to stage. Therefore, the Acts that are passed by the Legislature should conform to these essential facts. The nation as a whole should prosper. So, any legislation which seeks one extreme or the other, whether on the side of capital or labour, may perhaps kill the industries of the country. Mr. Narayanaswami Nayudu referred in a slight degree to that aspect of the question. If, therefore, I offer a few remarks, it ought not to be construed that thereby one is trying to prop up the interests of capitalism or that one is against labour. Sir, in this country, we have not done anything at all for many many years in the way of a legislation for improving the working conditions of labour. For the first time, somehow or other, we are trying to copy the most objective legislation that has been passed in other countries, and in fact, we are trying to improve upon it. I shall show presently, how in several respects, this legislation goes much further than the legislation that has been passed in England—I mean the Shops Act of 1934. Again, I find that the present Act is more or less, in a measure perhaps, a replica, adapting certain provisions that have been passed by the Bombay Legislature. Sir,

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the Bombay Legislature need not necessarily be the model for this Province to copy. There are several other advanced countries, countries which are very much advanced than we are, which have to be taken as our models. I want to emphasize this aspect of the question. This country is not alone now and cannot dispense with the future of its own conventions, as we are now in a shrinking world of international competition. What is the thing that we have to look to in this field of international competition? Unless we are in a position to stand up and face the international competitors on terms more or less of perfect equality, the result will be that we shall be inundated by international competition and we will not be in a position to give even the smallest amount of relief to those in whose interests we are passing this legislation.

" Sir, in times of crises, when nations are faced with difficulties in regard to national prosperity and when Governments have not put by any other means, they feel their hands and pass legislations which may affect the country as a whole. At such times, they have also to justify and to keep in abeyance certain of those provisions with regard to hours of work and the manner in which people should discharge their duties. Whatever may be the result of passing a legislation, we should give the people a certain number of hours of work and also make their working conditions very plain. We should not give the labour longer hours of work than those fixed in the legislation. Our passing this legislation and fixing the hours of work in regard to the various enterprises should not be considered the maximum hours of work for a man who has got to work for his living. I think it will be ruinous to the prosperity of the individual, to the family and the State if we are to take it that a person who works for 48 hours irrespective of the nature of the work that he has to carry on, is necessarily doing a week's good work. It may be that you may more or less limit the number of hours for any particular industry. I hope and trust that it will not be construed as the maximum amount that a person has got to turn out. I know of many professions which involve much greater strain—I am speaking of my own profession in which we have to work for hours and hours, day in and day out, without rest. Many of us have worked not for 48 hours but for 72 hours or even 90 hours. No legislation can possibly restrict the hours of work of doctors who have got the interests of the profession at heart and the interests of the patients at heart. So, here is a certain amount of necessity; but when a certain amount of uniformity is to be applied when it comes to details as to how this uniformity should be applied, I think, a great deal of consideration is necessary. In this Act, shops are defined nowhere. It will include the village pawn-broker, the village beedi merchant and the village shop-keeper who deals in 'Pan' and betel-nuts and also any person who probably carries on a big business at Mount Road. Already it seems to me that there is not a little amount of variation in regard to these shops that are in the village, in the rural areas and in the towns. So, if that dead level of uniformity was adopted, it would not be possible, without

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trying to keep the measure that has been passed, a dead-letter, to see that those shops are properly worked and that there is the necessary incentive for the shop-keepers and other persons who work them.

" Sir, provision has been made to which reference has already been invited about the employment of children and young persons. It says: 'No child shall be required or allowed to work in any establishment' and secondly, 'No young person shall be required or allowed to work in any establishment before 6 a.m. and after 7 p.m.' This Act gives power to anyone to investigate the age of a child that is employed. It is difficult to find out the exact age of a child in this country. In England, where a Child Act exists, there is a Register of Births and they can easily verify the reasonable age. Every birth is registered in England and can be easily verified, from the registers maintained in each and every village. Here, in this country, there is no such register and in actual working of this Act, there may be a great deal of difficulty in imposing some of the provisions of this Act and in satisfying oneself that the Act is properly worked. It is stated that no young person shall be required or allowed to work in any establishment before 6 a.m. and after 7 p.m. It is absolute. I do not know if any exemption is to be made because the Shops Act of 1934 that has been passed in England provides that there should be a certain amount of relaxation. It says:

'(1) A young person who is employed about the business of a shop shall in every period of twenty-four hours between midday on one day and midday on the next day be allowed an interval of at least eleven consecutive hours which shall include the hours from ten o'clock in the evening until six o'clock in the morning :

Provided that the said interval of eleven consecutive hours need not include the hour between five and six o'clock in the morning in the case of male persons between the ages of sixteen and eighteen years who are employed during that hour in connection with the collection or delivery of milk or bread or newspapers.'

So, there is a great deal of variation that must be accepted even in the nature of work to be carried on in an establishment. So, if there is any work after 7 p.m. or earlier than 6 a.m. it means that either you must prevent them being employed at those hours or it would be more or less necessary to try to get over this difficulty in a circumlocutory manner. In England, it has been allowed that a young person can work from 10 a.m. to 12 noon. There is also another provision in regard to restaurants which makes it possible for a person to work for a longer period. Provision has been made in the present Act that a person may work for forty-eight hours in a week and that he may also be allowed to work, subject to payment of overtime wages, up to fifty-four hours in a week. But, in England, it is laid that a person can work for 60 hours or even for 72 hours in certain cases, provided the period worked does not exceed over two weeks. We have to take the interests of these

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restaurants into consideration because there are fairs and festivals and how these restaurants could carry on if this sort of restriction is imposed? It is well known that these restaurants serve a public purpose and so, they deserve consideration. It is stated in the Act that a person can work up to fifty-four hours in any week and he will be paid the overtime wages. But, it seems to me that in actual working of this Act, it will almost come to a stalemate, if not a dead-letter. In the English Act, the period is specified as two weeks whereas it is not so here. As I have stated already, a young person who is employed in a business should be allowed at least an interval of eleven consecutive hours. The hours in which he will work will be from 10 to 2 o'clock and there should be an interval of about 20 minutes to 45 minutes. Supposing a person goes to a shop at 11-30 in the morning, you cannot give him an interval of one hour unless you make provision for two shifts. Not only it is provided in this Act that he must have an interval for meals or refreshment or lunch for about 20 to 45 minutes but it is also stated that for every four hours of work, he must necessarily be given one hour interval irrespective of the nature of the work in which he is employed. That seems to me to be unworkable. It will not help either the employer or the employee.

"Then, Sir, it is laid down that penalty should be, for the first offence—I think I am correct in saying—it is Rs. 25 and that for the subsequent offence it is Rs. 250. If you take the Act in England, in the case of the first offence, the penalty is £1, in the case of the second offence it is £5 and in the case of the third or subsequent offences, it is £10, irrespective of the nature of the establishment. So, it comes to this. For the first offence, it is about Rs. 13-8-0, for the second offence, it comes to Rs. 65 to Rs. 70 and for the subsequent offences, it comes to about Rs. 135."

DR. V. K. JOHN:—"Here the concern is the income to the Government. They want more money."

* DR. SIR A. LAKSHMANASWAMI MUDALIYAR:—"The Hon. the Minister will understand that there is the law of diminishing returns and so, if more money is required by the Government, it must be spread wide enough. It cannot be got by imposing severe penalties. If the person cannot pay such heavy penalties, he will simply file an insolvency petition."

MR. PRESIDENT:—"It is not the avowed object of the Government."

* DR. SIR A. LAKSHMANASWAMI MUDALIYAR:—"I am coming to the last point and I may point out this. Any measure that is passed here should necessarily conduce to the national economy and security of the state. We should not merely talk in terms of the employer and the employee. We are interested in both. I do not think any hon. Member of the Legislative Council or the Assembly could say that he is only for the employee or that he is only for the employer. My hon. Friend, Mr. Sarma, I am sure, does not lose sight of the employee but he need not speak always for the employee because there are others also who are

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advocating their cause. It is in the capacity of the employer that the safety of the employee lies and if the employer loses all the wherewithals, there will be very little progress for the employee. I think the time has come when the House should take a comprehensive view of the problem and constitute a committee which will go into this question. Hon. Members may be aware of the case of a particular mill industry which has come to the notice of the Government and which the Government are thinking of closing down merely for the sake of stopping a tussle. So, difficult times are ahead of us. It is therefore necessary that we ought not to pass a legislation creating a situation where the interests of the employees may be jeopardized. I am all for looking after the interests of the employees in various ways. One of the most pleasing sections in this Act is with reference to amenities for health that has been put in. I think there are certain other sections in Chapter V which deal with the conditions of work. I would plead for compulsory insurance of labour and for sickness benefit. As my hon. Friend has also suggested, I would plead for unemployment, insurance and old-age pensions. So, let us take a comprehensive view of all these aspects of the question. Piecemeal legislations in the interests of labour are not really going to prove to be ultimately in their interests because some other section may be so hardly affected that the employees may not find it possible to get all the relief about which the Government have probably given them expectations to look forward to. I would, therefore, plead once again that, as nowadays labour legislation is the order of the day—and quite rightly for many years, it has not been done and Government would do well in taking up labour legislation to consider the different legislations passed in other countries and to adapt them to the needs of this country, taking it as their basic objects that whatever legislation may be passed, it must ultimately promote national economy, national self-sufficiency and national efficiency."

3-45
p.m. THE HON. SRI H. SITARAMA REDDI:—"Sir, as befitting this House, this Bill has been criticised quite severely in some respects and has been welcomed partly by some members of the House as being general and not going to the extent it ought to go. Sir, so far as the Assembly was concerned, this Bill was criticised as not going far enough to meet the demands of labour and that several provisions have been omitted, but in this House, as I have been listening to the debate from yesterday, I have been told that this is a piece of legislation which is going to bring ruin to this Province. An hon. Member also brought in the Bolshevic bogey along with other criticism that he made. I can assure the House that no Bolshevic bogey need be brought into this Bill and there is no reason to apprehend all that has been apprehended by some of the hon. Members. It is a simple piece of legislation and let me say one thing in this connexion. This piece of legislation has been on the Statute Book of the Province of Bombay from 1939 and to-day Bombay has not gone to rack and ruin as some of our friends have sought to visualize the effects of this Bill. So, Sir, I can insure hon. Members that no such thing will happen.

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" Mr. Narayanaswami Nayudu wanted Government to furnish information about the number of people that are going to be affected by this Bill, the capital invested in the various shops, restaurants, commercial houses and all the rest of it. Sir, as I have already told the hon. Member, it is not possible for us now to get statistics as to the number of shops and the shop employees, but the object of the Bill has been to protect the interests of all the shop assistants so that their conditions of service may be beneficial to them and that they may be given the necessary holidays and so on. That is the sort of thing provided in this Bill.

" So far as the question of holidays is concerned, you might remember that there is already the Weekly Holidays Act that is being observed in Madras even now. The additional thing that we are now giving under this Bill, is 36 days. As I have already stated, hon. Members know that the Weekly Holidays Act is in vogue so far as this Presidency is concerned.

" Now, the question has been raised as to whether by this kind of legislation we are not bringing this Province into a state of bankruptcy, as Dr. John was pleased to remark. I can assure him that this piece of legislation is not going to bring the Province into bankruptcy, but with workers who are satisfied with getting adequate periods of rest, adequate number of holidays, I am sure, their health will considerably improve and they will give more efficient and more courteous service. Those for whom this legislation has been brought forward by the Government will understand the spirit with which this Bill has been brought forward by the Government and that they will see that they justify the great trust that Government have placed on them by giving them all these facilities, so that they may be able to show courteous service to the public and also increased efficiency to the employers of the various establishments in which they work.

" Again, Sir, certain specific clauses were taken and some hon. Members have pointed out certain defects in them. I think I need not go into those clauses at this stage because when we are going clause by clause I think it will be time enough for me to reply to the criticisms as each clause comes up for discussion. I thought hon. Members would not go into the merits of each clause but now that several members have touched upon them, I think when each clause is taken up I shall be able to satisfy them as far as I can, about the necessity and correctness of the clauses that have been referred to by hon. Members.

" Sir, one hon. Member was saying that this Act is absolutely general in character and that the entire power is given to the Government. For instance, one of the hon. Members referred to the section relating to lighting. He said that it is left to the Government to provide what lighting should be proper and what ventilation should be provided for these establishments. I can tell him these things are not necessarily provided in any Act, but that they are provided for under the rules. Under the rule-making

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powers under the Act necessary safeguards will be taken to see that proper ventilation is provided in the various establishments to which this Act will apply.

" Sir, the criticism that several provisions of this Bill are of a general character, cannot stand. An Act like this is bound to be general, because it has to be applied to various things, it has to be applied to different kinds of establishments, different kinds of trade and to different places. Again, hours of work in a particular place cannot suit another place and opening and closing hours might differ from one trade to another and from one commercial establishment to another. So, Sir, Government have reserved the power to enquire and to fix up necessary hours in respect of various establishments.

" Sir, reference was made by some hon. Members as to the number of holidays provided for in the Act. Excluding 52 holidays now enjoyed by all people, it would add another 44 days, the 36 days provided in the Act and 8 other holidays for festivals, so that the number of holidays will roughly come to 96. (Dr. A. Lakshmanaswami Mudaliyar: 'Including half holidays?') In so far as the half holidays are concerned, it is left to the Government to decide. That is not provided in this Act. Under the Act it will be 96 holidays in the year excluding other holidays.

" Several hon. Members spoke about how this Act was going to affect the consumer. Sir, even now in several of the enlightened establishments where provisions of this Bill are in vogue the prices already in vogue are continued and they have not increased the prices from what they are in others. So, Sir, the fear that the consumer's price will go up is not well-based. After all the people now employed will continue to be employed and only the hours of work will be changed but, at the same time, with increased efficiency the outturn of each shop is bound to be the same if not increased. So, Sir, the fear entertained by some sections of the House that consumer's price will go up is not well-founded and I am sure no such thing will happen.

" A strong plea has been made in the interests of the employer and it has been criticised that this legislation is more on the side of labour and that we are being hustled to do this kind of thing just for the sake of prestige. Sir, I may tell hon. Members that there is no question of prestige in this but it is a question of merely doing our duty towards labour which has been handicapped for long and to bring in the needed relief to those poor workers in various commercial establishments, restaurants and other places so that every employer will be compelled to see that these provisions are applied to their establishments so that the poor worker may be helped.

" Then, Sir, a question was raised about child labour. Sir, I am surprised that this question should have been raised. We have been all pleading that child labour should as far as possible be avoided and this Act only provides for what has been demanded in all countries and also all the world over. The trend everywhere

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has been to prevent as far as possible child labour being utilized because the child must be allowed to have a healthy growth so that he may become a useful citizen of the State and that is the only principle of which this legislation has provided that child labour should be avoided.

"Sir, some hon. Members made suggestions about unemployment, insurance, old-age pension and several other amenities. Sir, all these things should be done, but when hon. Members are creating such a bogey even in respect of this legislation I do not know what kind of reception will be got from them when legislations relating to social security and things like that are placed in their hands. I am glad that whatever may be their attitude to this Bill, they will not offer such criticisms when those measures are brought forward by the Government but that they will give their wholehearted support to them.

"Sir, in conclusion, I must thank all hon. Members for the various criticisms that they have offered and I look forward to their complete support in passing this Bill through this House."

MR. PRESIDENT:—"The motion before the House is that the Bill to provide for the regulation of conditions of work in shops, commercial establishments, restaurants, theatres and other establishments and for certain other purposes, as passed by the Assembly (L.A. Bill No. 15 of 1947), be taken into consideration at once."

The motion was carried.

(4) THE MADRAS NON-POWER FACTORIES BILL, 1947.

THE HON. SRI H. SITARAMA REDDI:—"Sir, I move—

'that the Madras Non-Power Factories Bill, 1947' (L.A. Bill No. 16 of 1947), as passed by the Assembly, be taken into consideration.'

"Sir, this is a Bill almost similar in several respects to the Bill that has just been discussed in this House. It is intended to regulate the conditions of labour and to make provision for the welfare of workers in places and premises where the Factories Act now does not apply and it is intended to provide certain amenities which are available to the workers under the Factories Act in the regular factories to non-power factories also. The whole object of the Bill is to see that the workers in the non-power factories get the needed holidays, security of employment and measures for their health and safety. There is also a provision in the Bill for the appointment of the necessary inspecting staff to enforce these measures. Sir, at this stage, I do not want to say much more than this, except to move that the Bill be taken into consideration at once."

* SRI P. R. K. SARMA:—"I welcome this legislation. Sir, as one of its kind has been long overdue. The Factory Act provides for the control and supervision of establishments which employ

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a particular number of workers and also those which use power, electricity or steam. It has been found, Sir, in the course of the working of the Factories Act that employers, clever as they are, and with all the resources they have even in the legislature, circumvent the Act. They reduce the number of employees or show on the attendance a lesser number of persons than they actually employ. For example, Sir, in some printing establishments and even in certain newspapers proclaiming nationalist views and even socialistic doctrines actually employ a number of persons but show only less than ten persons on the attendance. Others are shown as casual workers engaged from day to day. The benefits given to the workers according to the Factory Act are thus denied by showing a lesser number of people on the rolls. Then, Sir, there are large establishments working under factory conditions but not actually using electric or steam power. There are a large number of beedi factories and other establishments which employ a large number of children. For example, Sir, in the beedi factories, boys, especially Muslim boys, and Depressed class boys of seven and eight years are employed. One of the questions asked is what will they do for their food? It is not proper that these children whose mothers and fathers cannot take care of them should be allowed to be exploited by unscrupulous employers. We know of such children in the city of Madras in Washermanpet, Rayapuram and also in the mufassal, Sir, in the cashewnut industry in Travancore, there were children working without any limitation of hours and their hands were blistered with the juice of the nuts. I made an appeal to the Dewan of that State, Sir. C. P. Ramaswami Ayyar, and he was pleased to bring the cashewnut factories under the Factories Act. Some justice was done to these poor children. The largest number of child workers are in these beedi factories. They do not strictly come under the definition of a factory and yet they are large enough. Therefore, a piece of legislation like this is absolutely necessary to protect people who are employed in shops which do not strictly come within the Factories Act. Sir, I say that a legislation of this kind is long overdue.

“ Dr. John when referring to the other Bill said that there are no trade unions and there has been no demand from the workers for legislation. I am sorry to find that he is ignorant of the fact that shop assistants and workers in commercial establishments are better organized to-day than those in factories. There are about 200,000 hotel workers in the province and they have nearly 100 trade unions to-day. In the city of Madras there are two big trade unions for those employed in hotels and any number of unions of beedi workers and commercial employees. There are also some other unions for employees in chemist shops.”

DR. V. K. JOHN :—“ I did not say that there was no trade union. I simply said that they should exercise their rights and put forward demands.”

SRI P. R. K. SARMA :—“ We have had a number of enquiries about their grievances but the committees, the adjudicators and enquiry courts have made only pious recommendations by which

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the workers have not been helped in any way. I have seen a large number of them during the last twenty years but they are unable to help the workers in the absence of an essential and necessary legislation. While welcoming this Bill, I am sure that China Bazaar will not disappear as Dr. John said. But on the other hand they are making larger profits than even the mill-owners. There are number of social legislations in foreign countries and in other provinces. They have not become bankrupts. I do not say that we should have the interests of labour alone and should not think of the employers at all. We do not say anything of that sort. It is recognized that the employers should prosper and make profits or else the workers will suffer. We do not seek to eliminate the employers. What we want is that the State should look after the interests of the workers and protect them. The employers are able to take care of themselves. They make money, they have support even in the legislatures, of very clever lawyers like Dr. John, Sir. The workers are, on the other hand, at a disadvantage and unless a legislation is enacted mere trade unions will not be able to do much good. I am glad that this piece of legislation has been brought forward and I support it."

DR. V. K. JOHN :—" I have not had much time to study the clauses of this Bill, Sir."

MR. PRESIDENT :—" Shall we take up the discussion to-morrow? "

THE HON. SRI K. MADHAVA MENON :—" The Bill can be discussed clause by clause to-morrow. I think we can have the general discussion to-day."

DR. V. K. JOHN :—" We are tired and we should have only three hours sitting. We are elders."

THE HON. DR. P. SUBBARAYAN :—" What about the Assembly? We sit there from 11 o'clock to 5-30 in the evening."

DR. V. K. JOHN :—" We want a short discussion on the general aspects of the Bill to-morrow for half an hour."

MR. PRESIDENT :—" I now adjourn the House to meet again at 11 a.m. to-morrow."